

FIRST REGULAR SESSION

# SENATE BILL NO. 387

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAYER.

Read 1st time January 25, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

0881S.03I

## AN ACT

To amend chapter 265, RSMo, by adding thereto one new section relating to rice seed, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 265, RSMo, is amended by adding thereto one new section, to be known as section 265.525, to read as follows:

**265.525. 1. This section shall be known as the "Missouri Rice Certification Act".**

**2. As used in this section, the following terms shall mean:**

**(1) "Characteristics of commercial impact", characteristics that may adversely affect the marketability of rice in the event of commingling with other rice and may include, but are not limited to, those characteristics that cannot be visually identified without the aid of specialized equipment or testing, those characteristics that create a significant economic impact in their removal from commingled rice, and those characteristics whose removal from commingled rice is infeasible;**

**(2) "Committee", the rice certification committee established in this section;**

**(3) "Department", the department of agriculture;**

**(4) "Director", the director of the department of agriculture;**

**(5) "End user", any company or corporation that uses rice as a major ingredient in industrial food processing;**

**(6) "Handler", any person engaged in this state in the business of marketing rice, including persons engaged in the drying, milling, or storing of rice;**

**(7) "Person", any individual, partnership, limited liability**

22 company, limited liability partnership, corporation, firm, company, or  
23 any other entity doing business in Missouri;

24 (8) "Producer", any person who produces, or causes to be  
25 produced, rice;

26 (9) "Rice", all rough or "paddy" rice or brown rice (*Oryza species*)  
27 produced in or shipped in Missouri, including rice produced for seed. It  
28 does not include wild rice (*Zizania aquatic* or *Zizania palustris*).

29 3. Except as provided by rules promulgated by the department,  
30 it shall be unlawful for any person to introduce, sell, plant, produce,  
31 harvest, transport, store, process, or otherwise handle rice identified  
32 as having characteristics of commercial impact.

33 4. There is hereby created within the department of agriculture  
34 the "Rice Certification Committee". The committee shall be made up of  
35 the following nine members:

36 (1) The director, or his or her designee;

37 (2) Two members appointed by the director to include:

38 (a) An individual representing handlers in Missouri;

39 (b) An individual representing end users;

40 (3) Six members appointed by the director as recommended by  
41 the Missouri Rice Research and Merchandising Council to include:

42 (a) Two producers, neither of whom shall be employed by or  
43 serve on the board of any rice mill or rice merchandiser;

44 (b) Two scientists employed by institutes of higher education in  
45 Missouri;

46 (c) A representative of rice mills operating in Missouri; and

47 (d) A representative of rice seed dealers.

48 5. Members of the committee shall serve terms of three years in  
49 length except that the director shall be a permanent member of the  
50 committee and the director shall stagger the terms of the initial  
51 appointments so that three members serve terms of two years, three  
52 members serve terms of three years, and two members serve terms of  
53 four years. There is no limit to the number of terms a member may  
54 serve. Vacancies shall be filled in the same manner of representation  
55 as the original appointments.

56 6. The rice certification committee shall meet no less than twice  
57 annually as determined by the chairperson of the committee, who shall  
58 be elected by the committee at its first meeting and once every

59 calendar year thereafter. Members of the committee shall serve  
60 without compensation but shall be reimbursed for their actual and  
61 necessary expenses incurred in the performance of their duties.

62         7. The powers and duties of the rice certification committee shall  
63 include, but not be limited to, all of the following:

64           (1) Identifying rice varieties that have characteristics of  
65 commercial impact;

66           (2) Developing rules that shall be promulgated by the  
67 department regarding the selling, planting, producing, harvesting,  
68 transporting, drying, storing, processing, testing, or other handling of  
69 rice identified as having characteristics of commercial impact;

70           (3) Reviewing the efficacy of terms and conditions of identity  
71 preservation programs imposed on the planting, producing, harvesting,  
72 transporting, drying, storing, testing, or otherwise handling of rice  
73 identified using the most current industry standards and generally  
74 accepted scientific principles;

75           (4) Reviewing each rice variety identified as having  
76 characteristics of commercial impact not less often than every two  
77 years, or upon receipt of a petition from the purveyor of the rice;

78           (5) Making recommendations to the director on all matters  
79 pertaining to this section, including, but not limited to, enforcement of  
80 this section;

81           (6) Reviewing and approving any and all rules, policies, and  
82 procedures proposed by the department to implement this section  
83 provided that the committee shall render a decision within sixty days  
84 of the receipt of any proposed rule, policy, or procedure from the  
85 department or else the department may proceed without the  
86 committee's approval;

87           (7) Holding hearings to review appeals of notices of violation  
88 issued by the department and voting to uphold or not uphold the  
89 alleged violation. A hearing must be held within sixty days of receipt  
90 of the request for a hearing or else the notice of violation stands as  
91 issued by the department.

92         8. Neither the recommendations of the committee nor any rule  
93 promulgated under this section shall be construed as establishing any  
94 production, processing, or market tolerance.

95         9. The department shall have the power to:

96           (1) Maintain the integrity and prevent the contamination of rice  
97 which has not been identified as having characteristics of commercial  
98 impact;

99           (2) Prevent the introduction of disease, weeds, or other pests  
100 that would adversely affect rice which has not been identified as  
101 having characteristics of commercial impact;

102           (3) Require that persons selling, offering for sale, or otherwise  
103 distributing seed for the production of rice identified as having  
104 characteristics of commercial impact, or that persons bringing rice  
105 identified as having characteristics of commercial impact into the state  
106 for processing, notify the department of the location of planting sites  
107 and the dates and procedures for planting, producing, harvesting,  
108 transporting, drying, storing, testing, or otherwise handling of rice  
109 identified as having characteristics of commercial impact;

110           (4) Require that persons receiving rice having been identified as  
111 having characteristics of commercial impact produced outside the state  
112 for processing notify the department of the location of the receipt and  
113 the procedures for processing, transporting, drying, storing, testing, or  
114 otherwise handling the rice to prevent commercial impact to other rice  
115 and the spread of weeds, disease, or other pests;

116           (5) Enforce restrictions and prohibitions imposed by the  
117 department on the selling, planting, producing, harvesting,  
118 transporting, drying, storing, testing, processing, or otherwise handling  
119 of rice identified as having characteristics of commercial impact;

120           (6) Investigate alleged violations of this section, issue notices of  
121 violation, provide for an appeals process for persons aggrieved by the  
122 provisions of this section, and impose penalties for violation of this  
123 section;

124           (7) Encourage research and development of new types of rice.

125           10. The penalty for violating a provision of this section shall be  
126 no less than ten thousand dollars nor more than one hundred thousand  
127 dollars per day per violation.

128           11. The department shall promulgate rules to implement the  
129 provisions of this section. Any rule or portion of a rule, as that term is  
130 defined in section 536.010, RSMo, that is created under the authority  
131 delegated in this section shall become effective only if it complies with  
132 and is subject to all of the provisions of chapter 536, RSMo, and, if

133 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,  
134 are nonseverable and if any of the powers vested with the general  
135 assembly pursuant to chapter 536, RSMo, to review, to delay the  
136 effective date, or to disapprove and annul a rule are subsequently held  
137 unconstitutional, then the grant of rulemaking authority and any rule  
138 proposed or adopted after August 28, 2007, shall be invalid and void.

139       12. If the department determines a person has violated any  
140 provision of this section, the department shall provide written notice  
141 to such person informing the person of the violation. The notice shall  
142 inform the person of the right to request a hearing before the rice  
143 certification committee as established in this section. If a hearing is  
144 held and a majority of the committee agree that a violation occurred,  
145 the department shall impose a penalty as authorized in subsection 8 of  
146 this section. Nothing in this section shall prevent a person from  
147 seeking judicial relief.

148       13. The provisions of this section shall become effective one  
149 hundred eighty days from the effective date of this act.

Bill ✓

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